DOCUMENT RESUME

ED 452 125 SO 032 686

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TITLE Civil Disobedience.
INSTITUTION Constitutional Rights Foundation, Los Angeles, CA.
PUB DATE 2000-00-00
NOTE 18p.; Bill Hayes, Editor. Theme issue. Published quarterly.
AVAILABLE FROM Constitutional Rights Foundation, 601 South Kingsley Drive, Los Angeles, CA 90005. Tel: 213-487-5590; Tel: 800-488-4273 (Toll Free); Fax: 213-386-0459. For full text: http://www.crf-usa.org/lessons.html.
PUB TYPE Collected Works - Serials (022) -- Guides - Classroom - Teacher (052)
JOURNAL CIT Bill of Rights in Action; v16 n3 Spr 2000
EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Activism; *Citizen Participation; *Civil Disobedience; *Civil Rights; Demonstrations (Civil); Political Issues; Secondary Education; *Social Studies; United States History; World History
IDENTIFIERS Bill of Rights; *Free Speech Movement; *Gandhi (Mahatma); Operation Rescue

ABSTRACT

This theme issue looks at three historical and recent instances of civil disobedience. The first article examines the Free Speech Movement, which arose on the Berkeley campus of the University of California in the 1960s. The second article recounts the struggle of Mahatma Gandhi to free India from the British Empire. The final article explores the anti-abortion rescue movement. Each article includes questions for class discussion and writing, a further reading list, and classroom activities. (BT)

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ED 452 125

Civil Disobedience

Bill of Rights in Action
Volume 16
Number 3
Spring 2000

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Bill Hayes, Ed.

Constitutional Rights Foundation

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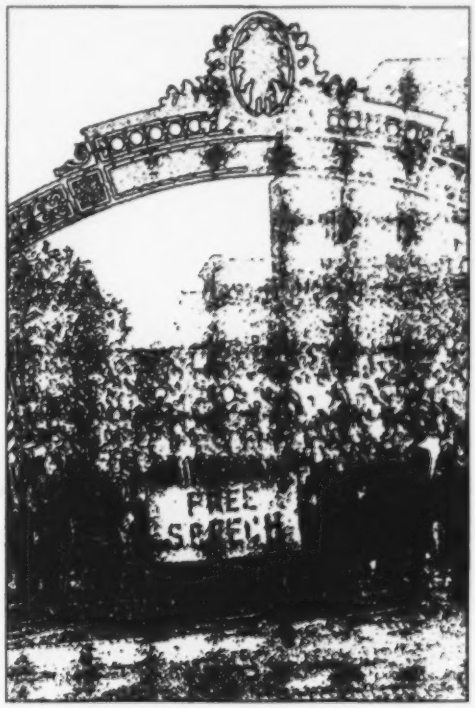
The
BILL OF RIGHTS IN ACTION

CONSTITUTIONAL RIGHTS FOUNDATION SPRING 2000 VOLUME 16 NUMBER 3

The Berkeley Free Speech Movement: Civil Disobedience on Campus

The Berkeley Free Speech Movement was one of the first of the 1960s university student protests that challenged authority and criticized the way things were.

On October 1, 1964, Jack Weinberg was arrested for soliciting contributions without permission for a black civil rights organization on the Berkeley campus of the University of California. The arresting officers put Weinberg, a 24-year-old graduate student, into a police car. Protesting students immediately surrounded the car. This was the beginning of the Berkeley Free Speech Movement. The ensuing acts of civil disobedience shocked those in authority and plunged the university into several months of near chaos.



In November 1964, UC Berkeley students marched through Sather Gate. Students demanded the university recognize their right to free speech on campus. (Ronald L. Enfield)

US HISTORY

The Free Speech Movement was the one of the first of the many protests at universities across the country throughout the 1960s. The "baby boom" generation, the children of the World War II generation, flooded into the nation's universities during the early 1960s. Some students eager for political change sensed the potential power in their numbers and set out to challenge the older generation that seemed satisfied with the way things were. Jack Weinberg, proclaimed shortly after his arrest, "You can't trust anyone over 30." This became one of the slogans of "student power" protesters throughout the country.

Rule 17

University of California (UC) has several branches throughout the state. Its oldest campus is at Berkeley, a city across the bay from San Francisco. The public, tax-supported UC system is governed by a Board of Regents. This body consists of the governor of California, other elected state officials, and several appointees.

Clark Kerr was the president of the UC system in 1964. A national educational leader, Kerr had recently written a book that described the modern American university as a "knowledge industry." Students later used this phrase to refer to the university as a large, impersonal, and bureaucratic institution.

For many years, the University of California followed a policy of political and religious neutrality on all its campuses. The Board of Regents adopted "Rule 17," which prohibited

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Civil Disobedience

This *Bill of Rights in Action* looks at three historical and recent instances of civil disobedience. The first article examines the Free Speech Movement, which arose on the Berkeley campus of the University of California in the 1960s. The second article recounts the struggle of Mahatma Gandhi to free India from the British Empire. The final article explores the anti-abortion rescue movement.

U.S. History: The Berkeley Free Speech Movement: Civil Disobedience on Campus

World History: Bringing Down an Empire: Gandhi and Civil Disobedience

U.S. Government: The Rescue Movement: Pushing the Limits of Free Speech

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political or religious speakers on UC property unless first approved by the campus administration. Likewise, administrators had to approve any fund raising or recruitment for off-campus causes.

Since Rule 17 banned unauthorized political and religious activities at Berkeley, a lively tradition of free speech developed just outside Sather Gate, one of the main university entrances. But in 1958, the campus extended its boundary about 40 feet beyond this entrance. This meant that the recruitment, speech-making, distribution-of-literature, and fund-raising activities that continued outside Sather Gate were taking place on UC property in violation of Rule 17.

For several years, the Berkeley administration ignored the ongoing violations of Rule 17 in the Sather Gate area. As the new school year began in September 1964, however, Berkeley officials decided to enforce the campus ban on unauthorized speech activities.

Mario Savio

Students of all political persuasions signed a petition asking the Berkeley administration to reconsider its decision to enforce the ban. On September 21, after Berkeley administrators had rejected their petition, about 100 students began picketing the school. At the same time, in an act of civil disobedience, several political groups set up information tables on university property outside Sather Gate. Some of these students, mostly white and middle class, had gained experience with non-violent civil disobedience the previous summer while working for black civil rights organizations in the South.

A few days later, several leaders of the Sather Gate protest, including Weinberg, were summoned to the dean's office for a disciplinary hearing. Accompanied by about 500 other students, the protest leaders marched to the dean's office in Sproul Hall and promptly sat down in the hallways.

During this first Sproul Hall sit-in, a philosophy major named Mario Savio made a speech claiming that the UC system was never politically neutral and charging that it was controlled by big business interests on the Board of Regents. "Anybody who wants to say anything on this campus, just like anybody on the city street, should have the right to do so," he declared, "and no concessions by the bureaucracy shall be . . . considered by us, until they include complete freedom of speech!"

The sit-in broke up early the next morning, but political groups set up their information tables directly in front of Sproul Hall in defiance of university authorities. At this point, Weinberg was arrested and put into the police car. Students surrounded the car, sat down, locked arms, and sang "We Shall Not Be Moved." Savio and others spoke to the large crowd from the roof of the police car.

Later in the day, Savio led about 150 students back into Sproul Hall and blocked the entrance to the dean's office. During a scuffle with police, Savio was accused of biting an officer on the leg. Finally, around 9 p.m., the students left the building, but the sit-in continued around the police car with Weinberg still inside.

Berkeley Chancellor Edward W. Strong issued a statement condemning the student actions. "Freedom of speech by students on campus is not the issue," he argued. "The issue is one presented by deliberate violations of University rules and regulations by some students . . . ."

Students surrounded the car, sat down, locked arms, and sang "We Shall Not Be Moved."

By late afternoon on October 2, about 500 law enforcement officers had moved onto the campus and were preparing to break up the student sit-in around the police car. But before a confrontation took place, Savio and other student leaders met with university officials to negotiate a compromise. In exchange for agreeing to stop their civil disobedience, the students secured a promise from UC President Kerr to form a committee to discuss "all aspects of political behavior on campus." The university also agreed not to press charges against Weinberg.

The Free Speech Movement

On October 4, Savio and others formed the Free Speech Movement (FSM) to represent students in negotiations with the university. The FSM wanted what it considered First Amendment rights to free speech guaranteed on the Berkeley campus. But the university refused to back down from its Rule 17 position.

On November 20, the Board of Regents held a scheduled meeting at Berkeley. About 3,000 students rallied outside the regents' meeting. The regents approved a new policy that identified certain campus areas in

which student planning, implementation, fund-raising, and recruitment would be permitted "for lawful off-campus activities." To the students, this qualification seemingly prohibited supporting black civil-rights organizations involved in civil disobedience against Southern racial segregation laws. The regents also issued disciplinary letters to Savio and three other students for their part in the police car and Sproul Hall sit-ins.

The Free Speech Movement organization sent an ultimatum to the university, demanding that the charges against Savio and the others be dropped. On December 2, after the university ignored this ultimatum, the FSM held a rally of about 4,000 students in front of Sproul Hall. Savio spoke, comparing the university to a machine. "There comes a time," he said, "when . . . you've got to put your bodies upon the gears and upon the wheels . . . to make it stop." Following Savio's speech, about 1,500 students invaded and occupied Sproul Hall.

In September 1964, university administrators took names of students staffing tables outside Sather Gate. University policy banned political activity in this area. (Ronald L. Enfield)

At 3 the next morning, hundreds of police officers entered Sproul Hall and started making arrests. Over the next 12 hours, nearly 800 students were arrested, carried from the building (sometimes roughly), and jailed.

In response, the FSM called a student strike, which caused the cancellation of most classes. At another huge rally, this time with up to 10,000 students present (about a third of the student body), FSM leaders called for the resignations of Berkeley Chancellor Strong and UC President Kerr. Kerr responded by stating that, "The rule of law must be honored in California."

After several more days of pandemonium on the campus, things came to a climax when the faculty Academic Senate met on December 8. With thousands of students outside the meeting hall listening over a public address system, the faculty debated what to do to end the crisis.

The main motion proposed at the Academic Senate session called for no university disciplinary action against any students involved in the free speech controversy. The motion went on to state, "That the content of speech or advocacy . . . should not be restricted by the university." The only qualification was that speech activities would be limited by reasonable regulations "to prevent interference with the normal functions of the university." Basically, this was the position taken by the FSM.

One professor, however, introduced an amendment to the motion, stating that speech on the campus should be "directed to no immediate act of force or violence." The professor argued that without this limit, the Ku Klux Klan and every other "extremist and crackpot organization" could use the university to spread hate and violence.

Another professor spoke out against the amendment. He argued that, "We should be concerned with the task of running a university where anybody can say whatever is on his mind, and other people listen to him and think about it and make up their minds whether they agree or not." In the end, the amendment was defeated and the main motion passed 824–115. Outside, the massed students cheered.

At their next meeting on December 18, the Board of Regents rejected the motion passed by the Berkeley Academic Senate. For the first time, however, the regents did accept the idea that student free speech should only be restricted by the limits of the First Amendment.

By the beginning of the new year, the immediate crisis at Berkeley had passed. But turmoil continued for quite some time. On January 2, 1965, the Board of Regents fired Berkeley Chancellor Strong. Taking advantage of their newly won free speech rights, some students began to use obscene words in their speeches and publications, causing the press to rename the FSM the "Filthy Speech Movement."

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Late in 1964, the Board of Regents commissioned Jerome C. Byrne, a prominent Los Angeles attorney, to head an inquiry into the causes of the student demonstrations at Berkeley. The resulting Byrne Report concluded that "the basic cause of unrest on the Berkeley campus was the dissatisfaction of a large number of students with many features of the society they were about to enter." The report went on to criticize how the university had handled the Sather Gate controversy and recommended that decision-making throughout the huge UC system be drastically decentralized.

A public opinion poll conducted in January 1965 reported that 74 percent of Californians disapproved of the Berkeley student protests. Many who were interviewed expressed the opinion that students had other options than civil disobedience. They said that in a democratic society civil disobedience should only be used as a last resort. During his campaign for governor the following year, candidate Ronald Reagan promised to "clean up the university." After he was elected, the UC Board of Regents fired Clark Kerr.

Inspired by the black struggle for civil rights in the South, the Berkeley Free Speech Movement led to university and even high school student protests all over the country. By the end of the 1960s, however, most of these protests had shifted from "student power" issues to opposition to America's deepening involvement in the Vietnam War.

For Discussion and Writing

1. What was Rule 17 and how did it apply to the area immediately outside Sather Gate in 1964?
2. What options did students have other civil disobedience to get Rule 17 changed? Should they have resorted to these options before choosing civil disobedience? Why or why not?
3. Mario Savio said the issue at Berkeley was student free speech. UC President Clark Kerr said it was a matter of the rule of law. Who do you think was right? Why?
4. Would you have voted for or against the amendment to the motion before the Berkeley Academic Senate? Why? How would you have voted on the main motion itself? Why?

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ACTIVITY

Activity Fees and the First Amendment

In 1996, politically conservative students sued the University of Wisconsin for its policy of mandating a student activity fee that helped to fund gay and lesbian, socialist, and other campus organizations with which they disagreed. The students argued that, under the First Amendment, no one should be forced to contribute to causes they oppose. University officials responded that since students had the right to form campus groups reflecting their views, the groups should have the right to seek activity fee funding approved by a student government board. The case reached the U.S. Supreme Court. In March 2000, the court ruled in favor of the University of Wisconsin in *Board of Regents v. Southworth*. This means that such a policy is constitutional. Whether such a policy should be used at public universities is a matter for the universities to decide.

In this activity, the class will simulate a public university student senate debating whether student activity fees supporting campus organizations should be voluntary or mandatory.

1. Divide the class into groups of three. Assign each member of the group one of three roles—supporter of mandatory fees, opponent of mandatory fees, and student senator.
2. Regroup the class so that members of each role group can meet together. Opponents and supporters of mandatory fees should develop arguments supporting their positions. Senators should develop questions to ask both sides.
3. Have students return to their original group of three. The senator should run the meeting, allowing both sides to explain their position and asking questions of both.
4. After these groups have met, the senators should come to the front of the room, discuss the issue, and vote on whether the university should have mandatory fees for campus organizations.
5. Debrief the activity by asking what the strongest arguments were on both sides.

Bringing Down an Empire: Gandhi and Civil Disobedience

Gandhi led the movement for independence in India by using non-violent civil disobedience. His tactics drove the British from India, but he failed to wipe out ancient Indian religious and caste hatreds.

Naturally shy and retiring, Mohandas K. Gandhi was a small, frail man with a high-pitched voice. He didn't seem like a person destined to lead millions of Indians in their battle for independence from the British Empire. And the tactics that he insisted his followers use in this struggle—non-violent civil disobedience—seemed unlikely to drive a powerful empire from India.

Although he was brought up in a middle-class family and educated in the West, Gandhi adopted the dress of India's poor. (Hulton-Deutsch Collection/CORBIS)

Gandhi was born into a Hindu merchant caste family in 1869. He was the youngest child. His father was the chief minister of an Indian province and showed great skill in maneuvering between British and Indian leaders. Growing up, Gandhi exhibited none of his father's interest in or skill at politics. Instead, he was heavily influenced by the Hinduism and Jainism of his devoutly religious mother. She impressed on him beliefs in non-violence, vegetarianism, fasting for purification, and respect for all religions. "Religions are different roads converging upon the same point," he once said.

WORLD HISTORY

In 1888, Gandhi sailed for England where, following the advice of his father, he studied to become a lawyer. When he returned to India three years later, he took a job representing an Indian ship-trading company that was involved in a complicated lawsuit in South Africa.

Traveling to South Africa in 1893, Gandhi soon discovered that the ruling white Boers (descendants of Dutch settlers) discriminated against the dark-skinned Indians who had been imported as laborers. Gandhi himself experienced this discrimination when railroad officials ordered him to sit in a third-class coach at the back of a train even though he had purchased a first-class ticket. Gandhi refused the order and police forced him off the train.

This event changed his life. Gandhi soon became an outspoken critic of South Africa's discrimination policies. This so angered the Boer population that at one point a white mob almost lynched him.

At the turn of the century, the British fought the Boers over control of South Africa with its rich gold and diamond mines. Gandhi sympathized with the Boers, but sided with Britain because he then believed that the British Empire "existed for the benefit of the world." Britain won the war, but much of the governing of South Africa remained in the hands of the Boers.

In 1907, the Boer legislature passed a law requiring that all Indians register with the police and be fingerprinted. Gandhi, along with many other Indians, refused to obey this law. He was arrested and put in jail, the first of many times he would be imprisoned for disobeying what he believed to be unjust laws.

While in jail, Gandhi read the essay "Civil Disobedience" by Henry David Thoreau, a 19th-century American writer. Gandhi adopted the term "civil disobedience" to describe his strategy of non-violently refusing to cooperate with injustice, but he preferred the Sanskrit word *satyagraha* (devotion to truth). Following his release from jail, he continued to protest the registration law by supporting labor strikes and organizing a massive non-violent march. Finally, the Boer government agreed to a compromise

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that ended the most objectionable parts of the registration law.

Having spent more than 20 years in South Africa, Gandhi decided that his remaining life's work awaited him in India. As he left South Africa in 1914, the leader of the Boer government remarked, "The saint has left our shores, I sincerely hope forever."

Civil Disobedience in India

When Gandhi returned to India, he was already a hero in his native land. He had abandoned his western clothing for the simple homespun dress of the poor people. This was his way of announcing that the time had come for Indians to assert their independence from British domination. Spin and weave, he preached to the Indian masses, and refuse to buy British cloth.

A crowd gathered round Mahatma Gandhi's rickshaw as he arrived for talks with British officials. (Hulton-Deutsch Collection/CORBIS)

The British had controlled India since about the time of the American Revolution. Gaining independence would be difficult, because Indians were far from united. Although most Indians were Hindus, a sizeable minority were Muslims. The relationship between the two groups was always uneasy and sometimes violent.

One of Britain's main economic interests in India was to sell its manufactured cloth to the Indian people. As Britain flooded India with cheap cotton textiles, the village hand-spinning and weaving economy in India was crippled. Millions of Indians were thrown out of work and into poverty.

Gandhi struggled throughout his life against what he considered three great evils afflicting India. One was British rule, which Gandhi believed impoverished the Indian people by destroying their village-based cloth-making industry. The second evil was Hindu-Muslim disunity caused by years of religious hatred. The last evil was the Hindu tradition of classifying millions of Indians as a caste of "untouchables." Untouchables, those Indians born into the lowest social class, faced severe discrimination and could only practice the lowest occupations.

In 1917, while Britain was fighting in World War I, Gandhi supported peasants protesting unfair taxes imposed by wealthy landowners in the Bihar province in northeastern India. Huge crowds followed him wherever he went. Gandhi declared that the peasants were living "under a reign of terror." British officials ordered Gandhi to leave the province, which he refused to do. "I have disregarded the order," he explained, "in obedience to the higher law of our being, the voice of conscience."

The British arrested Gandhi and put him on trial. But under pressure from Gandhi's crowds of supporters, British authorities released him and eventually abolished the unjust tax system. Gandhi later said, "I declared that the British could not order me around in my own country."

Despite his differences with Britain, Gandhi actually supported the recruitment of Indian soldiers to help the British war effort. He believed that Britain would return the favor by granting independence to India after the war.

Gandhi Against the Empire

Instead of granting India independence after World War I, Britain continued its colonial regime and tightened restrictions on civil liberties. Gandhi responded by calling for strikes and other acts of peaceful civil disobedience. During one protest assembly held in defiance of British orders, colonial troops fired into the crowd, killing more than 350 people. A British general then carried out public floggings and a humiliating "crawling order." This required Indians to crawl on the ground when approached by a British soldier.

The massacre and crawling order turned Gandhi against any further cooperation with the British government. In August 1920, he urged Indians to withdraw their children from British-run schools, boycott the law courts, quit their colonial government jobs, and continue to refuse to buy imported cloth. Now called "Mahatma," meaning "Great Soul," Gandhi spoke to large crowds throughout the country. "We in India in a moment," he proclaimed, "realize that 100,000 Englishmen need not frighten 300 million human beings."

Many answered Gandhi's call. But as the movement spread, Indians started rioting in some places. Gandhi called for order and canceled the massive protest. He drew heavy criticism from fellow nationalists, but Gandhi would only lead a non-violent movement.

In 1922, the British arrested Gandhi for writing articles advocating resistance to colonial rule. He used his day in court to indict the British Empire for its exploitation and impoverishment of the Indian people. "In my humble opinion," he declared at his trial, "non-cooperation with evil is as much a duty as is cooperation with good." The British judge sentenced him to six years in prison.

When he was released after two years, Gandhi remained determined to continue his struggle against British colonial rule. He also decided to campaign against Hindu-Muslim religious hatred and Hindu mistreatment of the so-called untouchables, whom he called the "Children of God." In Gandhi's mind, all of these evils had to be erased if India were to be free.

In 1930, Gandhi carried out his most spectacular act of civil disobedience. At that time, British colonial law made it a crime for anyone in India to possess salt not purchased from the government monopoly. In defiance of British authority, Gandhi led thousands of people on a 240-mile march to the sea where he picked up a pinch of salt. This sparked a mass movement among the people all over the country to gather and make their own salt.

Gandhi was arrested and jailed, but his followers marched to take over the government salt works. Colonial troops attacked the marchers with clubs. But true to Gandhi's principle of non-violence, the protesters took the blows without striking back. Gandhi explained, "I want world sympathy in this battle of Right against Might."

Gandhi now held the attention of the world, which pressured the British to negotiate with Indian leaders on a plan for self-rule. The British, however, stalled the process by making proposals that aggravated Indian caste and religious divisions.

The Mahatma decided that he had to do everything he could to eliminate Hindu prejudice and discrimination against the untouchables if India were ever to become a truly free nation. In 1932, he announced a "fast unto death" as part of his campaign to achieve equality for this downtrodden caste. Gandhi ended his fast when some progress was made toward this goal, but he never achieved full equality for the "Children of God."

Gandhi also dreamed of a united as well as a free India. But distrust between the two factions led to increasing calls for partitioning India into separate Hindu and Muslim homelands.

Independence and Assassination

During World War II, colonial officials cracked down on a movement calling for the British to "Quit India." They imprisoned Gandhi and many other Indians until the end of the war. Britain's prime minister, Winston Churchill, declared, "I have not become the King's First Minister in order to preside over the liquidation of the British Empire."

"In my humble opinion," he declared at his trial, "non-cooperation with evil is as much a duty as is cooperation with good."

When the British people voted out Churchill's government in 1945, Indian independence became inevitable. But the problem was how the Hindu majority and Muslim minority would share power in India. Distrust spilled over into violence between the two religious groups as the Muslims demanded a separate part of India for their own nation, which they would call Pakistan.

Disheartened by the religious hatred and violence, Gandhi spoke to both Hindus and Muslims, encouraging peace and forgiveness. He opposed dividing the country into Hindu and Muslim nations, believing in one unified India.

Finally, in May 1947, British, Hindu, and Muslim political leaders, but not Gandhi, reached an agreement for independence that created a Hindu-dominat-

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ed India and a Muslim Pakistan. As Independence Day (August 15, 1947) approached, an explosion of Hindu and Muslim looting, rape, and murder erupted throughout the land. Millions of Hindus and Muslims fled their homes, crossing the borders into India or Pakistan.

Gandhi traveled to the areas of violence, trying to calm the people. In January 1948, he announced that he would fast until "a reunion of hearts of all communities" had been achieved. At age 78, he weakened rapidly. But he did not break his fast until Hindu and Muslim leaders came to him pledging peace.

On January 30, 1948, an assassin shot and killed the "Great Soul" of India while he was attending a prayer meeting. The assassin was a Hindu who believed Gandhi had sold out to the Muslims.

Sadly, the peace he had brokered between Hindus and Muslims did not last. The ancient hatreds remained. War has erupted between India and Pakistan several times and the two countries remain hostile to one another to this day.

Who was Mahatma Gandhi? He was a physically small man with a big idea who achieved great things. He worked for the dignity of Indians in South Africa, struggled for Indian independence, and inspired others like Martin Luther King Jr. in the United States to confront injustice with non-violent methods. "It is the acid test of non-violence," Gandhi once said, "that in a non-violent conflict there is no rancor left behind and, in the end, the enemies are converted into friends."

For Discussion and Writing

1. What non-violent methods did Gandhi use in South Africa and India to achieve his goals?
2. How did Gandhi justify breaking the law in his civil disobedience campaigns? Do you agree with him? Explain.
3. When, if ever, do you think non-violent civil disobedience is justified?
4. Although Gandhi never used or advocated violence, he did not absolutely oppose it. "I do believe that where there is only a choice between cowardice and violence," he wrote, "I would advise violence." Describe a situation where you think Gandhi might agree that resorting to violence was necessary.

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ACTIVITY

Non-Violent Civil Disobedience

Since Gandhi, many individuals and groups have employed non-violent civil disobedience. The question has often arisen whether the civil disobedience was justified. In this activity, students examine various situations and tell whether the situation calls for civil disobedience.

1. Form small groups.
2. Each group should discuss each of the situations below. For each, the group should decide two issues:
   a. Does the situation justify non-violent civil disobedience? Explain.
   b. If so, what action would you recommend for those seeking to change the situation? If not, what action would you recommend? Explain.
3. Call on groups to report their decisions and reasons for them.

Situations

1. In 1955, the year after the U.S. Supreme Court ordered all schools desegregated, most public facilities—hotels, restrooms, water fountains, etc.—remained rigidly segregated in the South. African Americans were demanding full integration.
2. In 1964 at the University of California in Berkeley, university rules banned all political or religious speakers, fund raising, or recruitment from the campus unless first approved by the campus administration. Students were demanding to exercise what they consider their First Amendment rights to speak out on issues, raise funds for causes, and recruit members of political and religious organizations.
3. In 1967, America was deeply involved in the Vietnam War. Many people believed the war was wrong and demanded that the troops be brought home.
4. In its 1973 *Roe v. Wade* decision, the U. S. Supreme Court in effect legalized abortion in America. Many people today believe abortion is murder and it should be stopped.

The Rescue Movement: Pushing the Limits of Free Speech

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In the 1980s, Operation Rescue and other anti-abortion groups adopted new tactics of protest and civil disobedience aimed at shutting down abortion clinics. By directly confronting abortion doctors and their patients, the groups used tactics that pushed, and sometimes went beyond, the limits of free speech.

Monica Miller from Milwaukee, Wisconsin, believes with all her heart that life begins at conception. She also believes that abortion is murder, a "crime against humanity." A wife, mother, and doctor of theology, Miller formed a group called Citizens for Life, which became part of the rescue movement. To Monica, rescue refers to protest and civil disobedience activities aimed at disrupting and shutting down abortion clinics. "I never had any questions about breaking the law, whatever law is used to defend abortion," she once said. Like many others in the rescue movement, Monica was arrested numerous times for her acts of civil disobedience.

U S GOVERNMENT

Unlike other protest movements utilizing civil disobedience, the tactics of the rescue movement are intensely personal. The civil disobedience of the civil rights, student, and anti-war groups during the 1960s and 1970s was mainly against laws or official policies. By contrast, rescuing the unborn involves directly targeting individual doctors, clinic workers, and women seeking an abortion.

The Rescue Movement

In its 1973 *Roe v. Wade* decision, the U. S. Supreme Court ruled that the right to privacy included "a woman's decision whether or not to terminate her pregnancy." This decision, in effect, made abortion legal in the United States (in the first several months of pregnancy). It did not, however, end the debate on abortion. For many years, those opposed to abortion campaigned against it in courts, legislatures, and elections. Although they have been successful in securing laws and court decisions that limit the right to have an abortion, the *Roe v. Wade* decision has remained basically intact.

Some anti-abortion activists by 1987 had grown frustrated. Despite their efforts, more than 1 million abortions continued to take place in the United States each year. That year, Randall Terry, an evangelical preacher from Binghamton, New York, formed Operation Rescue. His idea was to take the fight against abortion directly to the clinics, doctors, and pregnant women who were closest to what he considered the murder of unborn babies. Terry quoted from Proverbs 24:11, "Rescue those who are being taken away to death; hold back those who are stumbling to the slaughter."

Operation Rescue soon became the most well-known of the organizations making up the rescue movement. Terry's first major campaign took place in Atlanta, Georgia, during summer and fall of 1988. Rescuers tried to persuade pregnant women entering the clinics to change their minds about having an abortion. Some protesters carried posters showing a mangled fetus and yelled out, "Don't kill your baby!" Others practiced non-violent civil disobedience blocking entrances to abortion clinics and chaining themselves to doors and gates. More than 1,200 demonstrators were arrested.

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"I don't mind having to have malpractice insurance. It's the fact that I also need LIFE INSURANCE that bothers me."

Rescue protesters throughout the country soon adopted the dramatic tactics used by Operation Rescue in Atlanta. In Wichita, Kansas, 2,500 protesters, including 10 children, were arrested during the summer of 1991 for illegally blocking the entrances to clinics where abortions were performed.

One of the largest Operation Rescue campaigns took place over several weeks in the Buffalo, New York, area in spring 1992. A half-dozen abortion clinics were targeted by rescuers who marched, stood, knelt, sat, or lay down in doorways and parking lot driveways. Some threw themselves onto the hoods of cars. Others even entered the clinics themselves.

A few rescuers, called "sidewalk counselors," handed out literature and spoke to women arriving at the clinics. When they failed to persuade the women to change their minds, the rescuers shouted in their faces. They also surrounded, grabbed, and pushed the women.

About 60 abortion rights volunteers tried to protect and escort the women entering the clinics. Sometimes, however, the protesters assaulted the escorts by elbowing, grabbing, or spitting at these volunteers. At one point, an Operation Rescue leader, Rev. Robert Schenck, thrust a hand-sized dead fetus in their faces.

In a related action, rescuers picketed with sound equipment at the offices and homes of doctors providing abortion services at the clinics. The demonstrations overwhelmed local police. Some protesters even harassed police verbally and by mail. When the rescue campaign was finally called off in May, nearly 700 had been arrested for disorderly conduct, trespassing, and resisting arrest. Some abortion rights volunteers were also arrested.

After 1992, several court actions significantly restricted rescue demonstrations. Some clinics began suing Operation Rescue and other such groups for the loss of business caused by the disruptive protests. In 1994, a Houston, Texas, jury awarded a Planned Parenthood clinic more than $1 million in damages. Abortion rights groups also successfully used a federal racketeering law in suing rescue organizations and leaders for committing acts of intimidation. The racketeering law requires triple damages in such cases.

The threat of civil suits with large damage judgments demoralized many rescuers. As a result, the large-scale demonstrations began to subside. Only the most radical continued using the aggressive rescue tactics. Unfortunately, a few of these individuals turned to acts of violence.

In 1993, an anti-abortion supporter shouted "Stop killing babies!" as he shot to death abortion doctor David Gunn. During the next few years, two other abortion doctors and several clinic employees were murdered in sniper shootings. In addition, arson attacks and bombings of abortion clinics took place. The violence did have an effect as fewer and fewer hospitals, clinics, and doctors agreed to perform abortions.

Those responsible for the violence justified their actions by arguing that they had "saved the babies" from the abortion death mills. To try to curb the upsurge in violent anti-abortion acts, Congress passed the Freedom of Access to Clinic Entrance Act of 1994. This law made it a federal crime to use "force or the threat of force" to prevent abortions.

Freedom of Speech

The rescue movement has raised several significant freedom of speech issues. During the period of mass demonstrations, some cities secured local court injunctions ordering protesters to remain outside a buffer zone surrounding the entrances to abortion clinics. In

1994, the U.S. Supreme Court in *Madsen v. Women's Health Center* upheld a 36-foot-wide zone of no entry for anti-abortion protesters. The high court ruled that such a zone protected public safety and the rights of women without placing an unnecessary burden on free speech. But the court threw out a restriction that prevented protesters from approaching and talking to clinic patients outside of this zone.

The disruptive Buffalo demonstrations of 1992 resulted in another Supreme Court decision in 1997. In *Schenck v. Pro Choice Network*, a 6–3 majority ruled that a 15-foot-wide "fixed buffer zone" around abortion clinic entrances was "content neutral" (i.e., not supporting or opposing any viewpoint) and thus was constitutional. In this case, two "sidewalk counselors" were permitted to enter the zone to try to persuade women in a non-threatening way against having an abortion.

> *"It is a heresy to teach Christians to obey a law which runs counter to His law."*

By an 8–1 majority, the justices went on to strike down a portion of the lower-court injunction that prohibited all but the two counselors from coming within 15 feet of any individuals or vehicles approaching or leaving the clinic. This 15-foot "floating buffer zone" moved with the individuals or vehicles. The court majority said not only would it be hard to enforce, but it put too much of a burden on the protesters in exercising their right of free speech on the public streets and sidewalks. As Justice Scalia put it, "There is no right to be free of unwelcome speech on the public streets while seeking entrance to or exit from abortion clinics."

Another First Amendment issue over the right of demonstrators to speak to unwilling listeners in public places is before the courts. Early in 2000, the Supreme Court heard arguments concerning a Colorado state law that placed an eight-foot protective "bubble" around anyone within 100 feet of a medical facility.

Yolanda Wu, from the National Organization of Women's Defense and Education Fund, commented that the Colorado law "is really just about protecting folks who need to get into a health-care facility." On the other hand, Philip Faustin, the Operation Rescue leader in Colorado, argued, "There should be nothing wrong with seeking to change someone's mind, walking along beside them and trying to convince them that what they are doing is wrong." Closely watched by civil liberties advocates as well as the rescuers, this case will probably be decided by summer 2000.

Justifications

Those in the rescue movement believe their cause justifies their actions. Most reject violence and criticize the actions of the radical few who have resorted to violence. But many support the tactics of those who approach medical personnel and patients entering clinics as exercises of freedom of speech. A large number also support those who use non-violent civil disobedience.

Most of those in the rescue movement think it's proper to block entrances and disrupt the workings of the clinics even though this violates the law. Randall Terry has said: "When God's law and man's law conflict, Scripture clearly teaches that man is not to obey that law. Some examples are when the three Hebrew children were thrown into the fire, when the apostles were jailed for preaching the Gospel, and when the stone was rolled away from the Lord's tomb. That was in defiance of a man-made law. God never gave the government a blank check to do what it wants to do. It is a heresy to teach Christians to obey a law which runs counter to His law."

Many rescuers believe they are working in the tradition of the abolitionists, who opposed slavery, and members of the civil rights movement, who opposed segregation. These people broke laws to end the evils of slavery and segregation. Rescue activists see abortion as killing millions of unborn babies. They view it as another Holocaust, which sent millions of people to their deaths in Nazi concentration camps in World War II. As one rescuer, arrested for blocking a clinic entrance, put it: "Back in my college days I wondered how people allowed the Holocaust to happen. I see the same pattern here. And I don't want anyone asking me someday, 'What did you do about abortion?'"

Those opposed to the rescue movement think the abortion issue differs from slavery, segregation, and the Holocaust. The Holocaust, they say, involved mass murder. They argue that abortion is not murder and historically has never been considered murder. They point out that the non-violent civil disobedience of the civil rights movement involved breaking segregation laws, which the U.S. Supreme Court had ruled unconstitu-

(Continued on next page)

tional. They argue this differs from abortion, which the U.S. Supreme Court has upheld as a woman's constitutional right. They also take issue with the comparison to abolitionists, who broke slavery laws to free slaves. They point out that a majority of Americans always opposed slavery whereas a majority favor a woman having the right to choose whether to have an abortion. They see rescuers as trying to impose their view of abortion and morality on Americans who don't share these views. Some opposed to the rescue movement have questioned whether rescuers' tactics of directly targeting individuals constitutes non-violent civil disobedience. Rekha Basu, a columnist for *The Des Moines Register*, argued: "While picketing, strikes and sit-ins against powerful institutions are legitimate civil disobedience activities, some of Operation Rescue's low-level personal tactics bore about as much relationship to the strategies promoted by Mahatma Gandhi and Martin Luther King as stalking does to true love."

For Discussion and Writing

1. Do you think the Colorado "bubble" law described above violates the First Amendment? Why or why not?
2. Which, if any, of the tactics used by rescue organizations during their abortion clinic demonstrations do you think were protected by the First Amendment? Explain.
3. Do you think rescuers are justified in using non-violent civil disobedience? Why or why not?

For Further Reading

Risen, James and Thomas, Judy L. *Wrath of Angels: The Inside Story of America's Abortion War*. New York: Basic Books, 1998.

Samuels, David. "The Making of a Fugitive." *New York Times Magazine*. 21 Mar. 1999:47+.

ACTIVITY

The Limits of Freedom of Speech

The First Amendment guarantees freedom of speech. The U.S. Supreme Court, however, has ruled that this right is not absolute. For example, in 1969 in *Watts v. United States*, the U.S. Supreme Court upheld a federal law banning threats against the president. But the court stressed that "a statute such as this one, which makes criminal a form of pure speech, must be interpreted with the commands of the First Amendment clearly in mind. What is a threat must be distinguished from what is constitutionally protected speech." The court ruled that only a "true 'threat'" could be outlawed. In *Watts*, a Vietnam protester had been arrested during an anti-draft rally for stating "If they ever make me carry a rifle the first man I want to get in my sights is L.B.J. [President Lyndon Baines Johnson]." The court ruled that this was not a true threat but "political hyperbole." The court declared that the First Amendment protects "debate on public issues" that is "uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks . . . ."

Abortion protests have raised many issues about freedom of speech. In this activity, students examine different examples of abortion protests and determine whether or not each is protected by the First Amendment.

1. Form small groups.
2. Each group should . . .
   a. read "Hypothetical Abortion Protests" below.
   b. discuss each example.
   c. determine whether or not the protest described is protected by the First Amendment.
   d. write down why the First Amendment does or does not cover this type of protest.
   e. be prepared to report each decision and the reasons for it to the class.
3. Have the groups report their decisions. Debrief by voting on whether each of the protests is protected by the First Amendment.

Hypothetical Abortion Protests

1. Protesters outside abortion clinics scream at those entering calling them "baby butchers" and "murderers."
2. In front of an abortion clinic, protesters hack to pieces an effigy of an abortion doctor.
3. Abortion protesters in front of a clinic carry "wanted for murder" posters showing the pictures of doctors who perform abortions.
4. A protester sets up a web site listing the names, photographs, home addresses, license plate numbers, and names of spouses and children of doctors and clinic workers describing them as "baby butchers."
5. This web site is the same as number 4 except the names of doctors who have been killed are crossed out and those who have been wounded are listed in gray.

CONSTITUTIONAL RIGHTS FOUNDATION

PostScript

RESOURCES AND MATERIALS FOR CIVIC EDUCATION

CRF Publications Director Receives Prestigious Law-Related Education Award

Marshall Croddy receives congratulations from Isidore Starr (center) and CRF's Executive Director Todd Clark (right) for winning the American Bar Association's Isidore Starr Award for Excellence in Law-Related Education.

ATLANTA, April 4, 2000—During the recent National Law-Related Education Leadership Conference, Marshall Croddy, CRF's director of program and materials development, received the Isidore Starr Award for Excellence in Law-Related Education. Sponsored by the American Bar Association, the Starr award was created in 1983 to recognize outstanding achievements in the field of law-related education.

Long active in law-related education, Croddy has designed, written, and supervised the field testing and publication of dozens of law-related curricula and supplementary educational materials including the popular ***Bill of Rights in Action*** newsletter, an LRE quarterly distributed nationally to 30,000 educators.

Croddy is the third member of Constitutional Rights Foundation to receive the award, following Todd Clark, executive director of Constitutional Rights Foundation, and Carolyn Pereira, executive director of Constitutional Rights Foundation Chicago.

New! Revised! Updated!

Criminal Justice in America

Grades: 9–12

Our most popular publication, ***Criminal Justice in America***, has been completely revised, updated, and supplemented. This latest edition features new and revised readings, up-to-date statistics, and new, expanded case studies. The most comprehensive secondary text available on the subjects of criminal law, procedure, and criminology, ***Criminal Justice in America*** can serve as a text for an entire law-related education course or as a supplement for civics, government, or contemporary-issues courses.

The Student Edition is divided into six units:

- **Crime:** Victim rights, history of crime, methods for measuring crime, white collar crime, violent crime, youth gangs, elements of crimes, and legal defenses to crime.
- **Police:** History of law enforcement, criminal investigations, search and seizure, interrogations and confessions, the exclusionary rule, the use of force, and police-community relations.
- **The Criminal Case:** A hypothetical criminal case from arrest through trial with all the key steps of the criminal trial process.
- **Corrections:** Theories of punishment, history of corrections, sentencing, alternatives to incarceration, prison conditions, parole, recidivism, and capital punishment.
- **Juvenile Justice:** History of the juvenile system, delinquency, status offenses, steps in a juvenile case, rights of juveniles, juvenile corrections, transfer to the adult system, and death penalty for juveniles.
- **Solutions:** Debates over the cause of crime, racism in the justice system, history of vigilantism, policy options to reduce crime and make the criminal justice system fairer, and options for individual citizens.

A separate Teacher's Guide provides detailed descriptions of teaching strategies, activity masters, chapter and final tests, background readings, and extra resources to supplement the text.

Criminal Justice in America will be available August 2000.

Take Students to the Heart of the Justice System

People v. Rose—The Latest in CRF's Mock Trial Series

Grades 6–12

With CRF's Mock Trial series, students acquire critical-thinking skills and an in-depth understanding of our judicial process while they study a hypothetical case, conduct legal research, and role play a courtroom trial. Each Mock Trial packet includes a hypothetical case, witness statements, legal authorities, trial instructions, and procedural guidelines. It also includes a pretrial motion designed to deepen student understanding of constitutional issues.

People v. Rose—After students are poisoned at a high school club initiation, police arrest a member of the "pledge class" who seems to have a motive of revenge for hazing and blackballing. Pretrial issue: Were the search of the student's computer and seizure of computer files legal?

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- Explore their community's recreational resources.
- Identify recreational needs.
- Evaluate existing recreation policy.
- Create a list of options for addressing a community need.
- Plan and implement an action project.

Sports and the Law After School

Grades 6–8

Sports and the Law After-School curriculum provides middle school youth with activities that reinforce academic, social, and athletic skills development. Designed to be facilitator-friendly and highly motivating for students, the Sports and the Law After-School curriculum contains structured, fun activities that:

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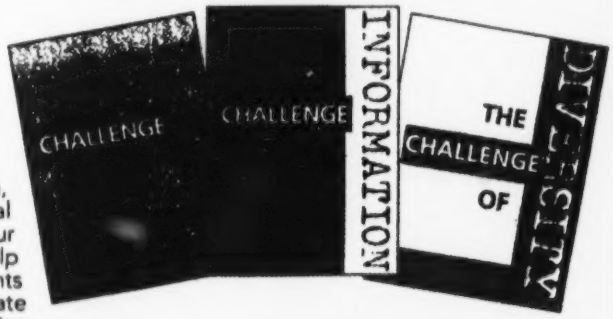
Two 8-session modules include step-by-step instructions for conducting in-class activities and a "Coach's Handbook" for leading organized games and sports. The curriculum also includes an optional student incentive program to promote academic achievement through cooperative learning.

CRF's New *Challenge* Series

Grades 9–12



Violence, information, diversity—three critical challenges facing our nation. In order to help high school students understand and evaluate these controversial topics, Constitutional Rights Foundation presents the ***Challenge*** series.

Made possible by a generous grant from the W.M. Keck Foundation of Los Angeles, these supplemental materials feature balanced readings, guided discussions, and interactive lessons designed to address key challenges to our democracy.

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New! National standards for U.S. history and civics are linked to each lesson.

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The Challenge of Violence

Challenge your students to grapple with one of America's most vexing problems—violence. ***The Challenge of Violence*** helps students:

- Place the problem of violence in its historical context.
- Examine how law and public policy seeks to address the problem of violence.
- Take action against violence in their own lives and in their communities.

The Challenge of Information

How do you teach your students to think critically about the information—and disinformation—that floods todays newsstands, airwaves, and the Internet?

The Challenge of Information helps students:

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- Delve into the conflict between freedom of the press and the right to a fair trial.
- Apply critical-thinking skills to myths, rumors, conspiracies and more.

RESOURCES AND MATERIALS PRICE LIST

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- Evaluate censorship and the Internet.

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# # #

PROGRAM NEWS

CRF Summer Law Camp

Two sessions of CRF's Summer Law Camp will take place on the UCLA campus from July 16 to July 22, 2000, and from July 30 to August 5, 2000. Students will participate in trial-skills workshops, expand their understanding of the legal system, build research skills, work with law professors, attorneys, and experienced group leaders, and learn about life on a college campus. For more information, contact Katie Moore via e-mail: katie@crf-usa.org or call (213) 316-2104.

$$$ for Service Learning Projects

CRF 's Maurice R. Robinson Mini-Grants program awards grants of $100–$1000 as seed money to teacher-student teams and community organizations for service-learning projects. This year's application deadline is October 9, 2000. For a complete set of guidelines and an application, visit our web site (**www.crf-usa.org**) or call our office at (213) 316-2109 to request an application package.

ABOUT CRF

Constitutional Rights Foundation is a non-profit, non-partisan citizenship education organization with programs and publications on law, government, civic participation, and service learning. Since 1962, CRF has used education to address some of America's most serious youth-related problems: apathy, alienation, and lack of commitment to the values essential to our democratic way of life.

Through a variety of civic-education programs developed by CRF staff, young people prepare for effective citizenship and learn the vital role they can play in our society. Empowered with knowledge and skills, our youth can interact successfully with our political, legal, and economic systems. CRF is dedicated to assuring our country's future by investing in our youth today.

HOW TO CONTACT US

For more information about CRF programs and curriculum materials, please contact our office at (213) 487-5590; fax (213) 386-0459; e-mail us at crf@crf-usa.org; or visit CRF's web site at **www.crf-usa.org**.

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